IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2212 of 1985
Date of decision: 24.1.2007.

Mohinder Singh and others ...Petitioners

Versus

Additional Director, Consolidation of Holdings, Punjab and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

Present: Mr. Amarjit Singh Markan, Advocate,
for the petitioners.

Mr. Vikas Singh, Advocate, for
respondents Nos. 2 and 3.

K.S.GAREWAL, J.

Mohinder Singh and 20 others of Dawarkapur, Sangrur had filed this petition under Articles 226/227 of the Constitution of India on April 26, 1985, to challenge the orders of Additional Director, Consolidation of Holdings, Punjab dated April 4, 1984 and Director, Consolidation of Holdings, Punjab dated November 22, 1984 (Annexures P/6 and P/8 respectively).

The brief facts of the case are that Khazan Singh respondent 2 and his wife Bhagwan Kaur respondent 3 had filed a petition under Section

43-A and 42 of the Consolidation of Holdings Act for correction of a mistake. Under Resolution 26 dated January 28, 1961 the common khata of Khazan Singh and another one one hand and Hazara Singh and others on the other hand was partitioned. Inadvertently when Khatauni Pamaish was prepared, the land was wrongly shown to be joint. Since the khata of the parties had been partitioned, therefore, it should have been shown separate in the record. Therefore, necessary correction had to be made to separate the khewats according to resolution 26.

The Additional Director Consolidation, Punjab, accepted the plea and remanded the case back to the Consolidation Officer with a direction that the khata of the petitioners should be partitioned to the extent mentioned in the resolution and necessary changes be incorporated in the ownership column of the revenue record. This order was passed ex-parte on April 4, 1984. This led the petitioners to file an application under Section 42 of the Act to challenge the said order.

The petition was taken up by the Director, Consolidation, who was of the view that the petitioners had chosen to remain absent despite service, therefore, the order passed on April 4, 1984 was not illegal. Furthermore, the ground of the petitioners that the resolution 26 was a forged document was not supported by any evidence. There was no document to prove this ground. Resultantly, the petition was dismissed.

The petitioners herein have argued that the consolidation proceedings were completed in 1961, therefore, the authorities had no jurisdiction to partition the land under Section 42 of the Act. This could only be done under Section 111 of the Punjab Land Revenue Act. Furthermore, resolution 26 was contrary to the scheme and khatauni

pamaish. This resolution was never implemented and remained a paper transaction. Partition was done according to the scheme and not according to the resolution. The parties remained in continued possession of their respective sharer. Respondents 2 and 3 never objected to this.

Learned counsel for the private respondents has argued that the resolution 26 was passed in accordance with the scheme on January 28, 1961. This resolution was never challenged by the petitioners. They have not pleaded any serious ground to challenge the resolution in the writ petition. Copy of the resolution had not been placed on record, therefore, the allegations that the resolution was a paper transaction was baseless. The partition has to be carried out in accordance with the said resolution.

The orders of the consolidation authorities have been carefully examined and it is found that these orders do not suffer from any jurisdictional or legal error calling for interference by this Court.

There is no merit in this petition. Dismissed.

24.1.2007 **(K.S.GAREWAL)**
prem **JUDGE**